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Report of the Office of the United Nations High Commissioner for Human Rights on the question of human rights in Cyprus

Note by the Secretary-General

Summary

The present report was prepared pursuant to Commission on Human Rights resolutions 4 (XXXI), 4 (XXXII) and 1987/50, as well as to Human Rights Council decision 2/102. The report covers the period from 1 December 2012 to 30 November 2013.

In the present report, the Office of the United Nations High Commissioner for Human Rights highlights the concerns voiced by various United Nations treaty bodies and special procedures at the factors and difficulties impeding the implementation of international human rights standards on the whole island in view of the protracted conflict in Cyprus. It gives an overview of specific human rights concerns in Cyprus, including with regard to the right to life and the question of missing persons, the principle of non-discrimination, freedom of movement, property rights, freedom of religion and cultural rights, freedom of opinion and expression, and the right to education. Moreover, it provides an update on activities in Cyprus to promote the implementation of Security Council resolution 1325 (2000), in which the Council called on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective.

The Office concludes that human rights do not have borders and that all stakeholders are thus obliged to uphold the fundamental freedoms and human rights of all people. It furthermore stresses the importance of addressing all human rights protection gaps and the underlying human rights issues in situations of protracted conflicts.

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I. Introduction

1. The present report was prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) pursuant to Commission on Human Rights resolutions 4 (XXXI), 4 (XXXII) and 1987/50, and Human Rights Council decision 2/102.[1]

2. As at 30 November 2013, Cyprus remained divided, with a buffer zone maintained by the United Nations Peacekeeping Force in Cyprus (UNFICYP).[2] In its resolution 2114 (2013), the Security Council welcomed the progress to date and the work that the parties were putting into preparing for productive negotiations in October 2013.The Council also noted, however, that the move towards a more intensive phase of negotiations had not yet resulted in an enduring, comprehensive and just settlement based on a bicommunal, bizonal federation with political equality, as set out in relevant Council resolutions. It therefore encouraged the sides to proceed with the substantive negotiations on the core issues, stressing that the status quo was unsustainable.

3. In the period from 1 December 2012 until the presidential elections held in the Republic of Cyprus (on 17 and 24 February 2013), the sides focused their work on confidence-building measures through the seven technical committees established in 2008 (on crime and criminal matters, economic and commercial matters, cultural heritage, crisis management, humanitarian matters, health and the environment) and two additional committees established in 2010 (on broadcasting and new crossings), which convene on an ad hoc basis. During the period under review, from 1 December 2012 to 30 November 2013, the sides maintained their participation in these committees. The meetings and activities of the committees are facilitated by the United Nations, primarily by the Office of the Special Adviser to the Secretary-General on Cyprus with support from UNFICYP and the United Nations Development Programme (UNDP). The confidence-building measures taken in 2013 included a joint Greek Cypriot and Turkish Cypriot firefighting exercise in the United Nations Protected Area conducted by the Crisis Management Technical Committee and the successful activation of a cross-community crisis communication mechanism to address the identification of livestock disease through the Technical Committee on Health and its Joint Committee on Veterinary Matters. In addition, significant progress was made in projects relating to the conservation of cultural heritage sites implemented by the Technical Committee on Cultural Heritage.

4. The presidential elections held in the Republic of Cyprus in February 2013 brought Nicos Anastasiades to office, together with renewed hope for the resumption of negotiations. Immediately following the elections, however, a severe economic crisis struck the Republic of Cyprus. As a result, during his initial months in office, Mr. Anastasiades focused on facing the economic crisis and negotiating a financial bail-out package with the European Commission, the European Central Bank and the International Monetary Fund. On 30 May 2013, the Greek Cypriot and Turkish Cypriot leaders met face-to-face at an

[1] For an overview of resolutions on the question of human rights in Cyprus, see A/HRC/22/18, paras. 1-4.

[2] UNFICYP was established pursuant to Security Council resolution 186 (1964) to prevent a recurrence of fighting between the Greek Cypriot and Turkish Cypriot communities on the island and bring about a return to normal conditions. Its responsibilities were expanded in 1974 following a coup d'état by elements favouring union with Greece and a subsequent military intervention by Turkey, whose troops established control over the northern part of the island. Since the de facto ceasefire in August 1974, UNFICYP has supervised the ceasefire lines, provided humanitarian assistance, and maintained a buffer zone between the Turkish and the Turkish Cypriot forces in the north and the Greek Cypriot forces in the south (see also www.unficyp.org/nqcontent.cfm?a_id=778).

informal dinner hosted by the United Nations. The sides began engaging directly again on 12 September 2013, at the level of the representatives of the leaders, to prepare the ground for a resumption of full-fledged negotiations. Throughout 2013 and since July 2013 in particular, the Office of the Special Adviser to the Secretary-General on Cyprus meets regularly with the parties and relevant national, regional and international actors to maintain momentum in the peace process, keep attention focused on a resumption of talks at the earliest opportunity, and prepare for a new round of talks. From April 2012 to April 2013, the Office of the Special Adviser also worked on cataloguing all the agreements and convergences reached during the period 2008-2012 and on developing new approaches for addressing remaining divergences in a more results-oriented process. According to information received from the Office, since September 2013, the two representatives of the leaders have been intensively discussing the drafting of a joint communiqué, which would be issued after the first leaders' meeting to officially mark the resumptions of negotiations.

II. Challenges for the implementation of international human rights standards in a protracted conflict

5. During the period under review, various United Nations treaty bodies and special procedures mandate holders voiced their concern at factors and difficulties impeding the implementation of international human rights standards on the whole island in view of the protracted conflict in Cyprus. In this context, treaty bodies and special procedures addressed their recommendations and questions to Cyprus, Turkey or the de facto authorities in the northern part of the island, respectively.

6. Following consideration of the periodic reports of Cyprus on 15 February 2013, the Committee on the Elimination of Discrimination against Women observed that, while it was aware that the State party did not exercise control over all of its territory and was thus unable to ensure the practical realization of women's rights in areas not under its control, it remained concerned that the political situation continued to hinder the implementation of the Convention on the Elimination of All Forms of Discrimination against Women in the region outside its effective control, and regretted that no information or data on the situation of women living in this region could be provided.[3]

7. Similarly, the Committee on the Elimination of Racial Discrimination noted in its concluding observations, adopted on 30 August 2013, that Cyprus did not exercise control over all of its territory and was thus unable to ensure full application of the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee remained concerned that the current political situation hindered the efforts to protect vulnerable groups covered by the Convention in the territory of the Republic of Cyprus.[4] The Committee also supported the recommendations of OHCHR with regard to addressing the underlying human rights issues and causes, including for those groups and communities whose rights are guaranteed by the Convention.[5]

8. In its list of issues prior to the submission of the fourth periodic report of Turkey, the Committee against Torture requested information from the State party on measures taken to ensure effective, transparent and independent investigations into all outstanding cases of alleged disappearances, including the large number still outstanding from the 1974

[3] CEDAW/C/CYP/CO/6-7, para. 4.
[4] CERD/C/CYP/CO/17-22, para. 6.
[5] Ibid., para. 7, and A/HRC/22/18, para. 56.

conflict in Cyprus, which the European Court of Human Rights has held to constitute a continuing violation.[6]

9. In preparation for the eighteenth session of the Working Group on the Universal Periodic Review, the reports of OHCHR compiling information in United Nations documents[7] and summarizing stakeholders' submissions for the universal periodic review of Cyprus in 2014 during the second cycle[8] contain chapters on the situation in, or in relation to, specific regions or territories, namely, the northern part of the island.

10. In a press release concerning interfaith communication in Cyprus, issued on 22 October 2013, the Special Rapporteur on freedom of religion or belief reiterated the importance of ensuring that there are no human rights protection gaps and that all persons can effectively enjoy their fundamental rights, including freedom of religion or belief, wherever they live.[9] In his a report on his mission to Cyprus submitted to the Human Rights Council at its twenty-second session, the Special Rapporteur referred to the existing frustration about the protracted conflict in Cyprus and many unsettled issues. He also noted, however, that the vast majority of his interlocutors agreed that the political situation had improved in recent years.[10] He furthermore addressed a number of practical recommendations to the Government of the Republic of Cyprus, the de facto authorities in the northern part of the island and other stakeholders.[11]

11. Protracted conflicts may involve a number of duty-bearers, including States and non-State actors. On the one hand, States parties must respect and ensure the rights laid down in international human rights treaties to anyone within the State party's power or effective control, even if not situated within the territory of that State party.[12] On the other hand, non-State actors that exercise government-like functions and control over a territory are obliged to respect human rights norms when their conduct affects the human rights of the individuals under their control.[13] As the norms contained in the Universal Declaration of Human Rights constitute customary international law, they should be enjoyed by all, including those residing in regions of protracted conflict. In turn, these rights need to be guaranteed by the authority that has effective control of the territory, regardless of its international recognition and international political status. Human rights do not have any borders; all stakeholders must ensure that the human rights needs of affected people are addressed as swiftly and effectively as possible.[14] In order to facilitate access to human rights protection mechanisms and effective legal remedies, it is imperative that OHCHR and other relevant actors have access and are able to work with non-State actors that exercise government-like functions and control over a territory.[15]

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[6] CAT/C/TUR/Q/4, para. 8.

[7] See A/HRC/WG.6/18/CYP/2, paras. 71-74.

[8] See A/HRC/WG.6/18/CYP/3, paras. 56-68.

[9] Available from www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13880&LangID=E.

[10] A/HRC/22/51/Add.1, para. 38.

[11] Ibid., paras. 74-94.

[12] See general comment No. 31 of the Human Rights Committee on the nature of the general legal obligation imposed on States parties to the Covenant (CCPR/C/21/Rev.1/Add.13), para. 10.

[13] A/HRC/8/17, para. 9; A/HRC/10/22, para. 22; A/HRC/12/37, para. 7; A/HRC/17/45, para. 20; and A/HRC/20/17/Add.2, para. 13. See also A/HRC/18/51, p. 53 (case No. OTH 2/2011) and p. 93 (case No. OTH 3/2011); A/HRC/22/51, para. 38; and CEDAW/C/GC/30, paras. 13-16.

[14] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12991&LangID=E.

[15] A/67/869, para. 10.

III. Specific human rights concerns

12. The persisting division of Cyprus continues to have consequences for a number of human rights issues on the whole island, including (a) the right to life and the question of missing persons; (b) the principle of non-discrimination; (c) freedom of movement; (d) property rights; (e) freedom of religion and cultural rights; (f) freedom of opinion and expression; and (g) the right to education. In addition, it is important that a gender perspective be adopted when negotiating and implementing peace agreements (see paragraphs 52 – 57 below).

A. Right to life and the question of missing persons

13. According to article 3 of the Universal Declaration of Human Rights, everyone has the right to life, liberty and security of person. Furthermore, article 1 of the Declaration on the Protection of All Persons from Enforced Disappearance provides that any act of enforced disappearance is an offence to human dignity, placing the persons subjected thereto outside the protection of the law and inflicting severe suffering on them and their families; any act of enforced disappearance also violates or constitutes a grave threat to the right to life.

14. As a result of the inter-communal fighting in 1963 and 1964, and of the events of July 1974 and afterwards, a total of 1,493 Greek Cypriots and 502 Turkish Cypriots have been officially reported as missing by both communities to the Committee on Missing Persons in Cyprus. During the period under review, the Committee continued its bicommunal project on the exhumation, identification and return of the remains of missing persons. As at 22 November 2013, the remains of 1,000 individuals had been exhumed on both sides of the buffer zone by the Committee's bicommunal teams of archaeologists; the remains of 818 missing persons had been analysed in the initial phase at the Committee's bicommunal anthropological laboratory; and the remains of 456 missing individuals (359 Greek Cypriots and 97 Turkish Cypriots) had been identified and returned to their respective families, including 124 since 1 December 2012. In comparison with previous years, this represents a sharp rise in the return of remains, which is largely attributable to the doubling of the Committee's anthropological laboratory, the successful transition to the genetic laboratory of the International Commission of Missing Persons in Bosnia and Herzegovina for the extraction of DNA from bone samples, and in-house final identifications made by the Committee's own recently created genetic unit.

15. From 19 to 21 December 2012, a delegation of the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament visited Cyprus to gather information concerning developments in the work of the Committee on Missing Persons in Cyprus. In its mission report, the delegation called for immediate and unrestricted access of the Committee to all military areas in the northern part of Cyprus, underlining that the right to know the fate of missing relatives is a fundamental right of the families concerned and must be guaranteed. Furthermore, the delegation reaffirmed that the humanitarian issue of the missing persons in Cyprus is a stand-alone issue and must not be linked to or influenced by any other political considerations.[16]

16. The Security Council, in its resolution 2114 (2013), welcomed all efforts to accommodate the exhumation requirements of the Committee on Missing Persons in Cyprus, and called upon all parties to provide full access to Committee teams. With regard

[16] See www.europarl.europa.eu/meetdocs/2009_2014/documents/libe/dv/929/929467/929467en.pdf.

to access to unfenced military areas in the north, by the end of 2012, a total of 22 access requests made by the Committee in the past seven years had been granted by the Turkish forces. In 2013, the Committee also requested, for the first time, access to a fenced military area in the north, and was granted permission.[17]

17. On 6 March 2013, the Committee of Ministers' Deputies of the Council of Europe recalled the need to adopt a proactive approach with regard to effective investigations into the fate of persons still missing, and called upon Turkey to continue to provide the Committee on Missing Persons with all relevant information and access to all relevant places. In this respect, it welcomed the permissions granted so far and the assurance of the Turkish authorities that they will continue granting the Committee on Missing Persons access to other relevant military zones. With regard to identified persons, while underlining once again the urgency to effectively investigate the deaths of these persons, the Committee of Ministers' Deputies welcomed the additional concrete investigative steps taken by the Turkish authorities, and underlined the crucial importance of investigators having access to forensic data and evidence kept by the Committee on Missing Persons, calling upon the Turkish authorities to continue to grant them access to relevant Turkish archives and reports.[18]

18. In its list of issues prior to the submission of the fourth periodic report of Turkey, the Committee against Torture invited Turkey to describe measures taken to comply with outstanding judgements of the European Court of Human Rights concerning disappearances, including the judgements in *Cyprus* v. *Turkey* and *Varnava and Others* v. *Turkey*.[19] With regard to the execution of the *Varnava* judgement, the Committee of Ministers of the Council of Europe, in an interim resolution of 26 September 2013, exhorted Turkey to pay, without further delay, the sums awarded by the European Court of Human Rights (€12,000 per application in respect of non-pecuniary damage and €8,000 per application in respect of costs and expenses), as well as the default interest due.[20]

B. Non-discrimination

19. According to article 7 of the Universal Declaration of Human Rights, all are equal before the law and are entitled without any discrimination to equal protection of the law.[21] Furthermore, all are entitled to equal protection against any discrimination in violation of the Declaration and against any incitement to such discrimination.

20. By the end of 2012, there were up to 210,000 internally displaced persons in the area under the control of the Government of the Republic of Cyprus, including around 90,000 children born in displacement.[22] When compared with previous years, the number of internally displaced persons rose slightly, as displaced children were still eligible to register as such.

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[17] S/2013/392, para. 30.

[18] Council of Europe Committee of Ministers' Deputies, decisions adopted at the 1164th meeting on 6 March 2013 (CM/Del/Dec(2013)1164) on the cases of *Cyprus* v. *Turkey* (application No. 25781/94), Grand Chamber judgment of 10 May 2001, and *Varnava and Others* v. *Turkey* (applications Nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90), Grand Chamber judgment of 18 September 2009.

[19] CAT/C/TUR/Q/4, para. 8.

[20] Council of Europe Committee of Ministers, interim resolution CM/ResDH(2013)201.

[21] See also International Covenant on Civil and Political Rights, art. 26.

[22] Internal Displacement Monitoring Centre, *Global Overview 2012 – People internally displaced by conflict and violence*, Norwegian Refugee Council, Geneva, 2013 (available from www.internal-displacement.org/publications/global-overview-2012), p. 44.

21. In February 2013, the Committee on the Elimination of Discrimination against Women noted with concern that the legislation of Cyprus continued to discriminate against children of women with internally displaced status by preventing them from benefiting from the same status awarded to children of internally displaced men, which includes access to voting rights, social benefits and housing assistance. The Committee urged Cyprus to amend its legislation without delay to ensure that children of women with internally displaced status are able to benefit from the same status as children of internally displaced men.[23] In June 2013, the Government of the Republic of Cyprus reportedly took a preliminary decision that children of women with internally displaced status were to be given the same status and benefits as children of internally displaced men, namely, by allocating the funds available equally among all those with internally displaced status.[24]

22. In its concluding observations of 30 August 2013, the Committee on the Elimination of Racial Discrimination recommended that Cyprus respect the right to nationality without discrimination and ensure that no particular groups of non-citizens are discriminated against with regard to access to naturalization. The Committee also requested the State party to include in its next periodic report information on how nationality laws and regulations were applied to those in the occupied territories.[25] It also expressed its concern at the rise in the incidence of racially motivated verbal abuse and physical attacks by right-wing extremists and neo-Nazi groups against persons of foreign origin, human rights defenders and Turkish Cypriots.[26]

23. During the period under review, UNFICYP continued to address day-to-day humanitarian and welfare issues faced by Greek Cypriots and Maronites residing in the north, and by Turkish Cypriots residing in the south, including through home visits. Despite the repeated voicing of concerns at the deteriorating health of elderly Greek Cypriots and Maronites in the north, the requests for Greek-speaking doctors to treat these patients and to transfer a defibrillator to assist one of them continued to be denied.[27] The Turkish Cypriot authorities however argue that the regional health centre is fully equipped, including with a defibrillator, and also has a Turkish Cypriot doctor who fluently speaks Greek.

C. Freedom of movement

24. According to article 13 of the Universal Declaration of Human Rights, everyone has the right to freedom of movement and residence within the borders of each State, as well as the right to leave any country, including his own, and to return to his country.[28]

25. In Cyprus, however, crossings between the northern and the southern parts of the island are still possible only through (currently seven) official crossing points, a situation that obviously limits freedom of movement. The Committee on Crossings, which was tasked by the Greek Cypriot and Turkish Cypriot leaders in December 2010 to reach an agreement on new crossing points, did not meet during the period under review; despite

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[23] CEDAW/C/CYP/CO/6-7, paras. 33-34.

[24] George Psyllides, "Children of refugee mothers granted equal status", *Cyprus Mail*, 21 June 2013, available from http://cyprus-mail.com/2013/06/21/children-of-refugee-mothers-granted-equal-status/. See also A/HRC/22/18, para. 21.

[25] CERD/C/CYP/CO/17-22, para. 18.

[26] Ibid., para. 12. See also the alternative report submitted by the civil society organization KISA to the Committee on the Elimination of Racial Discrimination on 9 August 2013 (http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CYP/KISA-Alternative%20Report%20on%20Cyprus_14925_E.pdf), pp. 22-25.

[27] S/2013/7, para. 16, and S/2013/392, para. 20.

[28] See also International Covenant on Civil and Political Rights, art. 12.

UNFICYP engagement with both sides, their positions on the location of any new crossing points remained irreconcilable. In addition, a request made by a Greek Cypriot woman to return to the Karpas region was pending; another request – for the reunification of a Greek Cypriot family, including three children, with their grandparents in Rizokarpaso – that was submitted on 31 August 2012 has to date received no positive response.[29]

26. In its ninth report on the implementation of the "Green Line" Regulation (EC) No. 866/2004, the European Commission noted a visible decrease in the number of both Greek Cypriots and Turkish Cypriots crossing the Green Line in 2012, with the number of crossings by non-Cypriot European Union citizens and third-country nationals also decreasing significantly when compared with previous years. While the vast majority of the crossings took place smoothly, in its report, the Commission also referred to a few incidents that had been a source of concern for the Turkish Cypriot community.[30]

27. On 30 August 2013, the Committee on the Elimination of Racial Discrimination expressed its concern that, in spite of the opening of several crossing points since 2003 and the resulting increase in contact between the Greek Cypriot and the Turkish Cypriot communities, the protracted conflict in Cyprus and the continued division of the island maintain tension between the two communities.[31] During the consideration of the State party's seventeenth to twenty-second periodic reports, the Committee's Country Rapporteur noted that demographics in Cyprus had been largely shaped by population movements since the partial occupation of the island by Turkey in 1974 and the State party's accession to the European Union in 2004.[32]

28. In a press release of 22 October 2013, the Special Rapporteur on freedom of religion or belief hailed a key breakthrough in interfaith communication and an agreement that allowed Greek Orthodox and Muslim religious leaders to cross the Green Line. On 16 October 2013, Bishop Christoforos of Karpasia, who had been prevented during the previous 18 months from visiting the northern part of Cyprus and his diocese, was allowed to visit and worship at the monastery Apostolos Andreas on the Karpas peninsula in the north-east of Cyprus. On 18 October 2013, the Grand Mufti of Cyprus crossed the Green Line and held a service at Hala Sultan Tekke Mosque near Larnaca for the first time. This was made possible by an agreement reached with the Greek Orthodox Archbishop Chrysostomos II, who personally facilitated the Grand Mufti's access to the areas controlled by the Government of the Republic of Cyprus.[33] On 30 November 2013, Bishop Christoforos of Karpasia also officiated at a church service with reportedly more than 5,000 worshipers on the name day of the monastery Apostolos Andreas.

D. Property rights

29. According to article 17 of the Universal Declaration of Human Rights, everyone has the right to own property alone as well as in association with others, and no one is to be arbitrarily deprived of his property.

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[29] See S/2013/392, paras. 22 and 28.

[30] Report from the Commission to the Council, COM(2013) 299 final (available from http://ec.europa.eu/enlargement/pdf/turkish_cypriot_community/20130524_green_line_report_en.pdf), pp. 2 and 3.

[31] CERD/C/CYP/CO/17-22, para. 7.

[32] CERD/C/SR.2254, para. 13. See also the alternative report submitted by KISA to the Committee on the Elimination of Racial Discrimination on 9 August 2013 (see footnote 26), pp. 13 and 14.

[33] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13880&LangID=E and A/HRC/22/51/Add.1, paras. 46, 51, 55-56, 77 and 85.

30. With regard to property claims in the southern part of the island, on 12 March 2013, the European Court of Human Rights rejected the applications of four Turkish Cypriot property owners in the case of *Ali Kamil Karamanoğlu and Others* v. *Cyprus* on the grounds that they had not yet raised the matter of contention in the appropriate forum.[34] Thus the European Court of Human Rights confirmed its approach in the admissibility decision in the case of *Kazali and Others* v. *Cyprus*, in which it could not exclude that the amended Turkish-Cypriot Properties Law 139/1991 provides an accessible and effective framework of redress in respect of complaints about interference with the property owned by Turkish Cypriots.[35]

31. With regard to property claims in the northern part of the island, as at 30 November 2013, a total of 5,587 applications had been lodged with the Immovable Property Commission, of which 452 were concluded through friendly settlements and 11 through a formal hearing.[36] The Commission paid a total of £140,940,671 to the applicants as compensation. Moreover, the Commission ruled for exchange and compensation in two cases, for restitution in one case, and for restitution and compensation in five. In one case, the Commission delivered a decision for restitution after the settlement of the Cyprus issue, and in another case it ruled for partial restitution. On 25 November 2013, the Turkish Cypriot authorities extended the deadline for the submission of applications to the Commission for an additional term of two years, ending on 31 December 2015.

32. With regard to the complaints made by four Greek Cypriots about the length of the proceedings before the Immovable Property Commission, the European Court of Human Rights, in its admissibility decision in the case of *Eleni Meleagrou and Others* v. *Turkey*, noted that a period of some four years and eight months at two levels (including appeals against the decisions of the Commission) was deemed "not unreasonable given the newness of the procedure, the nature of the proceedings which incorporated a specific settlement procedure, the number of claims raised and the technical nature of property disputes".[37]

33. Following a decision by the Higher Regional Court of Munich in Germany of 18 March 2013, more than 170 religious artefacts, including icons, pieces of church art and early historical objects, were returned to the Republic of Cyprus in July 2013. An appeal against an earlier decision of the district court of Munich, which had ruled in favour of the plaintiffs (namely, the Republic of Cyprus, the Autocephalous Greek-Orthodox Church of Cyprus, the Bishopric of the Armenians of Cyprus and the Archbishop of the Maronites of Cyprus), was thus partially rejected by the Higher Regional Court of Munich.[38] The latter also confirmed that the plaintiffs could invoke their ownership rights with regard to these objects, which had been located in monasteries, museums and churches in the northern part of Cyprus before their removal. The Higher Regional Court of Munich noted that the Republic of Cyprus had not exercised control over the northern part of the island since the occupation of that territory by Turkish troops in 1974; however, the court stressed that, de jure, this part still belonged to the Republic of Cyprus, explicitly referring to Security Council resolution 541 (1983).[39]

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[34] See European Court of Human Rights, *Ali Kamil Karamanoğlu and Others* v. *Cyprus* (application No. 16865/10), decision of 12 March 2013, paras. 16 and 17.

[35] See European Court of Human Rights, *Kazali and Others* v. *Cyprus* (application No. 49247/08), decision of 6 March 2012, para. 153, and A/HRC/22/18, para. 29.

[36] See www.tamk.gov.ct.tr.

[37] See European Court of Human Rights, *Eleni Meleagrou and Others* v. *Turkey* (application No. 14434/09), decision of 2 April 2013, para. 18.

[38] See District Court of Munich I, decision (9 O 4481/04) of 23 September 2010, and Higher Regional Court of Munich, partial decision (19 U 4878/10) of 18 March 2013.

[39] Higher Regional Court of Munich, partial decision (19 U 4878/10) of 18 March 2013, para. 1.3.2.

34. On 6 June 2013, the Committee of Ministers' Deputies of the Council of Europe, which supervises the execution of judgements of the European Court of Human Rights, took note of the assessment of the questions regarding the property rights of enclaved persons and their heirs, as presented in an information document by the Secretariat of the Council of Europe,[40] and decided to resume consideration of the matter at the latest at the Committee's meeting in June 2014.[41]

E. Freedom of religion and cultural rights

35. According to article 18 of the Universal Declaration of Human Rights, everyone has the right to freedom of thought, conscience and religion, which includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.[42] Furthermore, according to article 27, everyone has the right freely to participate in the cultural life of the community, to enjoy the arts as well as to share in scientific advancement and its benefits.[43]

36. During the period under review, UNFICYP facilitated 51 religious and commemorative events involving more than 12,000 individuals, which were either held in or required crossing of the buffer zone. It welcomed the decision made by the Greek Cypriot side in April 2013 to allow the transfer of new carpets from the north to the Hala Sultan Tekke Mosque in Larnaca, although some restrictions to religious worship in the Mosque remained in place. The Greek Cypriot, Maronite and Armenian communities continued to conduct religious services in the north according to the practice of previous years, but no new sites were opened for worship.[44] During the period under review, the Turkish Cypriot authorities did not approve several requests to hold religious services, for example at the Church of Saint George in Kyrenia, the Church of Ayia Marina in Kythrea, the Church of Saint George in Vatyli village, the Church of Panayia Pergaminiotissa in Akanthou and the Church of Panagia Chrysopolitissa in Acheritou.

37. During the interactive dialogue with the Human Rights Council on 5 March 2013, the Special Rapporteur on freedom of religion or belief noted that the overall situation had clearly improved after the opening of the checkpoints in 2003, with positive implications also for the enjoyment of freedom of religion or belief throughout the entire island. At the same time, he identified existing challenges for Christian minorities in the northern part, for Muslim minorities in the southern part and for other religious minorities outside the ambit of bicommunalism. He had been encouraged by recent initiatives towards enhancing interreligious communication with a view to cultivating relationships of trust and peaceful coexistence.

38. As a follow-up to his official visit to Cyprus in 2012, the Special Rapporteur on freedom of religion or belief took part in the first interreligious round table in the United

[40] See the memorandum prepared by the Council of Europe Department for the Execution of the judgments and decisions of the European Court of Human Rights, *Cyprus* v. *Turkey* – Property rights of enclaved persons (CM/Inf/DH(2013)23).

[41] Council of Europe Committee of Ministers' Deputies, decisions adopted at the 1172nd meeting on 6 June 2013 (CM/Del/Dec(2013)1172) on the cases of *Cyprus* v. *Turkey* and *Varnava and Others* v. *Turkey*.

[42] See also International Covenant on Civil and Political Rights, art. 18, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (General Assembly resolution 36/55).

[43] See also International Covenant on Economic, Social and Cultural Rights, art. 15.

[44] S/2013/392, para. 21. Information received from UNFICYP.

Nations buffer zone in Nicosia, organized on 12 September 2013 by the Office of the Religious Track of the Cyprus Peace Process, under the auspices of the Embassy of Sweden and in cooperation with OHCHR. As all cooperation between the religious leaders had stopped when the bicommunal conflict between Greek Cypriots and Turkish Cypriots escalated 50 years earlier, the Special Rapporteur hailed these positive developments and the improved climate of interreligious communication in Cyprus as a breakthrough for religious freedom on the whole island.[45] It also implements one of the recommendations made by the Special Rapporteur in his report to the Human Rights Council, in which he called for the promotion of interreligious communication at both the level of religious leaders and the grass-roots level.[46] Such cooperation on the whole island indeed creates solid ground on which to address the underlying human rights issues, which could also have a positive impact on the reconciliation process as a whole.

39. The bicommunal Technical Committee on Cultural Heritage made important progress in the implementation of emergency measures for the protection of cultural heritage sites on both sides of the island. In February 2013, a multi-donor partnership was established for the restoration of the Apostolos Andreas monastery under the auspices of UNDP, and two contribution agreements worth €2.5 million each were signed on 17 September 2013 with the Church of Cyprus and the Evkaf Administration.[47] In addition, emergency works were carried out on, inter alia, the Mosque in Deneia/Denya despite some damage to the restoration works shortly after their commencement in January 2013, and further emergency measures were taken to preserve and safeguard the Hamam (Medieval Turkish Bath) in Paphos.[48]

40. In the context of the implementation of the aid programme for the Turkish Cypriot community, the European Commission continued its work aimed at protecting cultural heritage of the entire island, with a €2 million contribution agreement signed in April 2013 with UNDP for emergency stabilization on sites chosen by the bicommunal Technical Committee on Cultural Heritage, including the Othello Tower in Famagusta.[49]

F. Freedom of opinion and expression

41. According to article 19 of the Universal Declaration of Human Rights, everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

42. With regard to the safety of journalists, the United Nations Educational, Scientific and Cultural Organization (UNESCO) indicated in its written contribution to the universal periodic review of Cyprus during the second cycle[50] that it had recorded no killings of journalists in Cyprus from 2008 to 2012.

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[45] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13880&LangID=E.

[46] A/HRC/22/51/Add.1, para. 90.

[47] S/2013/392, para. 3. See also press release UNDP-PFF 222/13, 17 September 2013.

[48] See press releases UNDP-PFF 218/13, 30 April 2013 and 223/13, 9 October 2013.

[49] See the European Commission's Seventh Annual Report 2012 on the implementation of Community assistance under Council regulation (EC) No. 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community, COM(2013) 332 final (http://ec.europa.eu/enlargement/pdf/turkish_cypriot_community/20130604_seventh_annual_report_impl_community_assistance_en.pdf), p. 7.

[50] Available from www.ohchr.org/EN/HRBodies/UPR/Pages/UPRCYUNContributionsS18.aspx.

43. The Law on the Procedure for the Standardization of Geographical Names of the Republic of Cyprus was amended in July 2013, thus criminalizing the use of unrecognized names of regions, cities and villages. Pursuant to its article 6(1), any person who publishes, imports, circulates, offers, distributes or sells in the Republic of Cyprus maps, books or other documents, conventionally or digitally printed, in which geographical names and toponyms of areas of the Republic are printed differently from those designated in accordance with the procedures provided for in this Law or of those in the Toponyms Dictionary commits an offence and, if convicted, is subject to imprisonment not exceeding three years or a fine not exceeding €50,000, or both penalties, and all related documents are liable to seizure and destruction.

44. Concerning freedom of expression in the northern part of the island, it was reported that journalists may be arrested, put on trial and sentenced under the unjust actions section of the "Criminal Code", and that many journalists working in the northern part are subject to regular press freedom violations, although reportedly there were fewer such incidents in 2012 than in the previous year.[51]

45. In May 2013, the Cyprus Community Media Centre, which is located in the United Nations buffer zone, launched the island's first bicommunal Internet broadcasting facility. The multimedia studio aims at providing Cypriots with a neutral source of news and information on issues concerning peace and reconciliation, and developments in the two communities. The studio has already helped to create two multimedia and Internet radio websites: "BufferBuzz", funded by UNDP – Action for Cooperation and Trust in Cyprus, and "MYCYradio", funded by the European Commission.[52] In September 2013, the European Commission launched a €2.5 million grant scheme for civil society applicants from the northern part of Cyprus, aimed at strengthening dialogue and active citizenship, and also to promote reconciliation with the Greek Cypriot community.

G. Right to education

46. According to article 26 of the Universal Declaration of Human Rights, everyone has the right to education.[53] Education should be directed to the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms; it should promote understanding, tolerance and friendship among all nations, racial or religious groups, and it should further the activities of the United Nations for the maintenance of peace. Furthermore, parents have a prior right to choose the kind of education that is given to their children.

47. Turkish Cypriot students still face limited access to European Union exchange and educational programmes owing to the non-recognition by Cyprus of the universities in the northern part of the island. A scholarship scheme for the Turkish Cypriot community was set up by the European Commission under European Union Council Regulation (EC) No. 389/2006 in order to compensate for this lack of mobility. The scheme allows Turkish Cypriot students and professionals to spend up to one year abroad at a university or other host institution in the European Union. The purpose is both academic attainment and bringing Turkish Cypriots closer to the culture and values of the European Union. In the

[51] See www.freedomhouse.org/report/freedom-press/2013/cyprus.

[52] S/2013/392, para. 24. See also "A buzz in the buffer zone", UNDP, available from www.undp.org/content/cyprus/en/home/ourwork/actionforcooperationandtrust/successstories/a-buzz-in-the-buffer-zone/.

[53] See also International Covenant on Economic, Social and Cultural Rights, arts. 13 and 14, and Convention on the Rights of the Child, arts. 28 and 29.

academic year 2012/13, a total of 28 students and teachers participated in the scheme; in 2013/14, 181 undergraduate and postgraduate students, researchers and professionals were awarded a scholarship. Under the scholarship programme, in the academic year 2013/14, Turkish Cypriots were, for the first time ever, offered the option of studying at a university in the southern part of the island. OHCHR was informed by the Task Force for the Turkish Cypriot Community, Directorate-General for Enlargement of the European Commission, that the Commission also launched a grant scheme in November 2012 for Turkish Cypriot schools to benefit from modern teaching and management methods and to promote collaboration with Greek Cypriot schools.

48. In February 2013, the Committee on the Elimination of Discrimination against Women expressed its concern about the economic, linguistic and cultural challenges that girls belonging to ethnic minorities experience and that affect their academic performance and, ultimately, their transition to the labour market. The Committee therefore recommended that Cyprus intensify its efforts to remove economic, linguistic and cultural barriers faced by girls belonging to ethnic minorities, including Turkish Cypriot girls, in attaining a standard of performance that would facilitate their successful transition to further studies or the labour market.[54] Furthermore, according to the reports of the Secretary-General submitted in 2013, there were no new developments regarding the establishment of a Turkish language school in Limassol.[55]

49. In August 2013, the Committee on the Elimination of Racial Discrimination requested Cyprus to include in its next periodic report information on intercommunal initiatives undertaken by the State party and by civil society organizations to restore mutual confidence and improve relations between ethnic and/or religious communities as well as raise awareness through the impartial teaching of the history of Cyprus in schools and other State institutions.[56]

50. The Government of the Republic of Cyprus protested in October 2013 that the appointment of three educators at the high school and the nursery school in Rizokarpaso for the school year 2013/14 had been rejected without any reason given. In addition, it complained that seven textbooks used in public schools in government-controlled areas had been banned in the northern part of the island. The Turkish Cypriot authorities indicated, however, that the seven textbooks contained paragraphs that were totally unacceptable, as they promoted enmity against Turkish Cypriots.[57]

51. In July 2013, the Association for Historical Dialogue and Research, a non-governmental organization that includes members from various ethnic, linguistic and professional backgrounds working at various educational levels in Cyprus, launched a policy paper on "Rethinking Education in Cyprus". In the paper, it proposed a holistic view to education, in which the goals of peace education, human rights education, intercultural education, critical education and environmental education are integrated, in order to prepare school leaders, teachers, parents, children and young people to live in a multicultural, multilingual and multi-faith society in Cyprus. It also envisioned democratic education, free of any kind of discrimination, that involves students, teachers and parents of all cultural groups in Cyprus as active members of society in democratic processes of decision-making in schools.[58]

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[54] CEDAW/C/CYP/CO/6-7, paras. 25 and 26.

[55] S/2013/7, para. 16, and S/2013/392, para. 21.

[56] CERD/C/CYP/CO/17-22, para. 7.

[57] See also A/HRC/22/18, para. 47.

[58] AHDR, *Policy Paper: Rethinking Education in Cyprus*, available from www.ahdr.info/ckfinder/userfiles/files/POLICY%20PAPER_FINAL%20LR.pdf.

H. Gender perspective

52. In its resolution 1325 (2000), the Security Council called upon all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia (a) the special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction; (b) measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements; and (c) measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary. In addition, in its resolution 2122 (2013), the Council focused specifically on increasing women's participation and the consideration of gender-related issues in all discussions pertinent to the prevention and resolution of armed conflict, the maintenance of peace and security, and post-conflict peacebuilding.

53. With regard to Cyprus, the Security Council reiterated in its resolutions 2089 (2013) and 2114 (2013) that the active participation of civil society groups, including women's groups, is essential to the political process and can contribute to making any future settlement sustainable, recalled that women play an important role in peace processes, and welcomed all efforts to promote bicommunal contacts and events, including by all United Nations bodies on the island.

54. In February 2013, the Committee on the Elimination of Discrimination against Women, while noting that women were actively involved in the promotion of reconciliation and peace through bicommunal activities, also observed with concern the insufficient information provided by Cyprus on the participation of women in the peace process, including at the decision-making levels, and expressed its concern that the peace process currently under way could lack a gender perspective as called for by the Gender Advisory Team in its recommendations. The Committee called on Cyprus (a) to strengthen its dialogue with non-governmental and women's organizations to promote and encourage civil society and community-level participation in the peace process; (b) to increase its efforts to incorporate a gender perspective into the peace process by ensuring the protection of and respect for women's and girls' human rights, and by addressing their specific needs; and (c) to involve women fully in all stages of the peace process, including in decision-making, in accordance with Security Council resolution 1325 (2000).[59]

55. In its general recommendation No. 30, adopted on 18 October 2013, the Committee on the Elimination of Discrimination against Women noted that women's rights in conflict prevention, conflict and post-conflict processes are affected by various actors, including States (such as the State within whose borders the conflict arises or neighbouring States involved in the regional dimensions of the conflict) and non-State actors. Given that State institutions in conflict and post-conflict contexts are often weakened, or that certain government functions may be performed by other Governments, intergovernmental organizations or even non-State groups, the Committee stressed that, in such cases, there could be simultaneous and complementary sets of obligations for a range of the actors involved. Thus, under the Convention on the Elimination of All Forms of Discrimination against Women, State responsibility also arises if a non-State actor's acts or omission may be attributed to the State under international law. Furthermore, although non-State actors cannot become parties to the Convention, the Committee noted that, under certain circumstances, in particular where an armed group with an identifiable political structure

[59] CEDAW/C/CYP/CO/6-7, paras. 23 and 24.

exercised significant control over territory and population, non-State actors were obliged to respect international human rights.[60]

56. In its general recommendation No. 30, the Committee also noted that the full participation and involvement of women in formal peacemaking and post-conflict reconstruction and socioeconomic development were often not realized on account of deeply entrenched stereotypes, reflected in the traditionally male leadership of State and non-State groups, which excluded women from all aspects of decision-making, in addition to gender-based violence and other forms of discrimination against women. In this context, the Committee recommended that States parties ensure that women, civil society organizations focused on women's issues and representatives of civil society were included equally in all peace negotiations and post-conflict rebuilding and reconstruction efforts.[61]

57. The Gender Advisory Team, a group of academics and civil society activists from both sides of the divide working on issues of gender equality from a peace-building perspective, launched a report on 6 December 2012 entitled "Women's Peace in Cyprus". The report comprised an overview of Security Council resolution 1325 (2000) and the contributions made by the Gender Advisory Team since 2009 including recommendations and explanatory notes on the issues of governance and power-sharing, citizenship rights, property rights, and economic rights. Of these recommendations, the first three have already been presented to the negotiators and the Office of the Special Adviser to the Secretary-General on Cyprus. The Gender Advisory Team was encouraged by the efforts made by the negotiating teams to explore ways in which the work on mainstreaming gender equality could take effect.[62]

IV. Conclusions

58. **During the period under review, there were some positive developments on the question of human rights in Cyprus, including measures taken to protect cultural heritage sites on both sides of the island, the launch of the first bicommunal Internet broadcasting facility, an improved climate of interreligious communication and steps to allow Greek Orthodox and Muslim religious leaders to cross the Green Line that divides the island.**

59. **The persisting division of the island continues, however, to be an obstacle to the full enjoyment in mutual confidence by the whole population of Cyprus of all human rights and fundamental freedoms. These include the right to life and the question of missing persons, the principle of non-discrimination, freedom of movement, property rights, freedom of religion and cultural rights, freedom of opinion and expression, and the right to education.**

60. **Interreligious communication and cooperation on the whole island might, it is hoped, help to create solid ground on which to address the question of human rights in Cyprus, which could also have a positive impact on the reconciliation process as a whole.**

61. **It is hoped that the efforts to negotiate and achieve a comprehensive settlement of the protracted conflict in Cyprus will ultimately open avenues to improve the human rights situation on the island. Addressing the underlying human rights issues and causes should be an increasingly important part of peacekeeping efforts, and also**

[60] See CEDAW/C/GC/30, paras. 13-16.
[61] Ibid., paras. 43 and 46.
[62] See www.gat1325.org/#!publications/c21kz.

underpin the political dialogue aimed at achieving a comprehensive settlement of the Cyprus problem. Ensuring adequate women's participation and the consideration of gender-related issues in these discussions is vital.

62. **In 2013, various United Nations treaty bodies and special procedures voiced their concern at factors and difficulties impeding the implementation of international human rights standards on the whole island. On a positive note, however, in September 2013, the Special Rapporteur on freedom of religion or belief took part in the first interreligious round table discussion ever held in Cyprus, and subsequently hailed a key breakthrough for religious freedom on the island.**

63. **Following the first official visit by a special procedures mandate holder to Cyprus in 2012, further visits to the whole island with access to all relevant authorities are encouraged, in particular by the Special Rapporteur in the field of cultural rights, the Independent Expert on minority issues, the Special Rapporteur on the human rights of internally displaced persons, the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the right to education. It is imperative that OHCHR and other relevant actors have access to the whole island, relevant authorities and affected people.**

64. **Human rights do not have any borders and all stakeholders are thus obliged to uphold the fundamental freedoms and human rights of all people. It is vital that all human rights protection gaps and underlying human rights issues in situations of protracted conflicts be addressed.**